

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v.-

MICHAEL COHEN,

Defendant.

X

AFFIRMATION

**18-cr-850 (WHP)
18-cr-602**

X

LANNY J. DAVIS, being an attorney-at-law duly licensed to practice law in the District of Columbia, the State of Connecticut, the U.S. Court of Appeals for the District of Columbia, and the U.S. Supreme Court, makes the following allegations under the penalty of perjury:

1. Your Affirmant is post-judgment counsel for the Defendant MICHAEL COHEN, and as such am familiar with the facts and circumstances surrounding this case. This affirmation is submitted in support of an application to modify the judgment of the United States District Court, Southern District of New York (Pauley, J.) entered on December 12, 2018 (exhibit "A"). Its primary intended focus is on the "substantial assistance" provided to the Congress, a Constitutional component of "The Government" under the United States Constitution.

BACKGROUND

2. The "substantial assistance" provided by Michael Cohen to the Government, in its various investigations includes, *inter alia*, without limitation:

A. August - November 2018: Cooperation with Office of the Special Counsel (O.S.C.)

3. On seven dates, for over 60 hours, Michael Cohen cooperated with the Office of the Special Counsel (O.S.C.) Hon. Robert Mueller, and answered all questions truthfully and honestly. He did so without subpoena, and remained available for ongoing cooperation. He also turned over all documents requested by the O.S.C. that were available to him. To prepare for these interviews with the O.S.C., Mr. Cohen devoted more than 50 years of work and preparation.

4. In a pre-sentencing memorandum (exhibit "B"), the O.S.C. praised Mr. Cohen's cooperation, describing it as "credible" and "relevant" and pertinent to the "core issues under investigation. Total time relating to cooperation with O.S.C.: at least 110 hours.

B. February 27, 2019: Appearance before House Committee on Oversight and Reform.

5. On February 27, 2018, Michael Cohen voluntarily and publicly testified under oath before the House Committee on Oversight and Reform. He spent almost 8 hours testifying on that date. He devoted over 150 hours of preparation time with counsel, including searching for and producing various documents supporting his testimony. Total time: At least 160 hours (testimony and supporting documents are annexed as exhibit "C").

C. Mid-February 2019 - Meeting with SDNY.

6. Mr. Cohen and his counsel, Mike Monico, Esq. met in New York City at Southern District of New York offices with S.D.N.Y. prosecutors to present new evidence on possible crimes committed by various individuals. In the case of one category of alleged crimes, Mr. Cohen presented new "text messages" (and other written evidence) corroborating these possible crimes that might be relevant to obstruction of justice chargers by Mr. Trump and his associates. The evidence presented by Mr. Cohen revealed Mr. Trump (and counsel representing him) trying to convince Mr. Cohen to "stay on the team," and "dangling" the possibility of a pardon as a *quid pro*

quo in exchange for his silence. Total time at meeting: About 4 hours, with an additional twenty hours required to prepare for the meeting and assemble documents.

D. February 28 and March 6, 2019: voluntary testimony before the House Intelligence Committee.

7. On these two dates, Mr. Cohen testified in a Special Compartmentalized Information Facility (SCIF). On these two days, Mr. Cohen testified for 8 hours each day, still suffering from pain due to shoulder surgery, and answered all questions, and provided as many documents as he could locate at the request of committee staff. Mr. Cohen also spent at least 50 hours meeting with committee staff and with counsel preparing for this testimony. Total time: At least 66 hours.

E. March 20, 2019 – Letter to SDNY

8. On March 20, 2019, Mr. Cohen's attorney, Mike Monico, sent a letter revealing additional "new information" concerning possible crimes committed by Trump Organization (T.O.) associates, and possibly by Mr. Trump (exhibit "D"). That letter took Mr. Cohen over 10 hours to assist Mr. Monico and other counsel to prepare the letter after extensive interviews pertaining to this new information.

9. Mr. Monico, on Mr. Cohen's behalf, requested an opportunity for Mr. Cohen to meet personally with S.D.N.Y. prosecutors as part of a proffer, and to assist the S.D.N.Y. prosecutors in any way possible, constrained only by his departure time for entering prison at Otisville Correctional Facility within the next three weeks.

10. The S.D.N.Y. informed Mr. Monico that it declined to allow Mr. Cohen to come in to explain further in person the letter written by Mr. Monaco and the information contained therein. Total time: 10 hours.

F. Meeting with staff of House Judiciary Committee.

11. On or about the end of April and early May 2019, Mr. Cohen worked with House "Judiciary Committee" staff members both in person, and telephonically, to assist them in reviewing documents obtained from the S.D.N.Y. on a "thumb drive" to

search for relevant documents which were seized in April, 2018 from Mr. Cohen's (a) personal residence, and (b) law firm premises.

12. Time spent in attempting to review documents on the thumb drive and work with House staff but interrupted by Mr. Cohen's requirement to report to Otisville Camp on May 6, 2019. Total time: 25 hours.

13. The legal upshot of the above is that the total time spent (minimum), by Mr. Cohen, in providing "substantial assistance" to the Government is approximately 400 hours plus.

WHEREFORE, Your Affirmant respectfully submits that Defendant MICHAEL COHEN has both cooperated, and provided substantial assistance.

Dated: New York, New York
November 26, 2019

/s/Lanny J. Davis/s/
Lanny J. Davis
Attorney for Defendant Michael Cohen